

NEW JERSEY DIVISION OF TAXATION

TECHNICAL BULLETIN

TB-38

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TAX: GROSS INCOME TAX

TOPIC: NONRESIDENT RETURN INCOME PERCENTAGE

For tax years 1993 and thereafter, nonresidents must first calculate the tax as if they were New Jersey residents; that is, compute the tax on their income from all sources after subtracting allowable exemptions and deductions. The tax is then multiplied by the income percentage that results from dividing the taxpayer's income from New Jersey sources by income from all sources. In other words:

$$\text{Tax on Income Everywhere} \times \frac{\text{New Jersey Source Income}}{\text{Income Everywhere}} = \text{New Jersey Tax}$$

There are no provisions in the law (P.L. 1993, c.178) indicating that the treatment should be different when New Jersey source income is greater than income from everywhere. Nonresident taxpayers are required to use the percentage that results from dividing income from all sources into New Jersey source income, *regardless of the fact that the percentage may exceed 100%*.

Example: In 1993, a nonresident taxpayer realizes a gain from the sale of real property in New Jersey of \$50,000. In the same year, this nonresident sells a piece of property in New York but has a \$50,000 loss. The taxpayer also has \$10,000 of dividend income. Since the taxpayer completes Column A of Form NJ-1040NR "as if he were a New Jersey resident," his total income from everywhere would be \$10,000 because the \$50,000 property loss offsets the \$50,000 gain. The amount in Column B (income from New Jersey sources) would still be \$50,000. The taxpayer in this example calculates New Jersey tax as follows:

Gross Income from Everywhere	\$10,000
Personal Exemption	<u>– 1,000</u>
Taxable Income from Everywhere	\$ 9,000
Applicable Tax Bracket (1993)	<u>× 2%</u>
Tax on Income from Everywhere	\$ 180
New Jersey Tax	$\$180 \times \frac{\$50,000}{\$10,000} = \900

continued

For tax years prior to 1993, nonresident taxpayers used the income percentage that resulted from dividing New Jersey source income by income from everywhere to limit the amount of exemptions and deductions that could be subtracted from New Jersey source income. For tax years 1993 and thereafter, the income percentage is used to prorate the amount of tax on income from all sources to determine a nonresident taxpayer's New Jersey income tax liability.

For more information, contact the Division's Customer Service Center at 609-292-6400, email us at taxation@tax.state.nj.us, or write to:

New Jersey Division of Taxation
Information and Publications Branch
PO Box 281
Trenton, NJ 08695-0281

Many State tax forms and publications are available by fax and through our Web site. Call NJ TaxFax at 609-826-4500 from your fax machine's phone, or access the Division's home page at: www.state.nj.us/treasury/taxation/
